

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF BLUEGRASS CELLULAR)	
FOR A WAIVER OF DEPOSIT REGULATIONS)	CASE NO. 97-312
FOR CELLULAR SERVICE)	

ORDER

On July 27, 1997, Kentucky RSA #3 Cellular General Partnership, Kentucky RSA #4 Cellular General Partnership, and Cumberland Cellular Partnership (collectively, "Bluegrass Cellular") filed an application with the Commission requesting that the utility be granted an exemption from the requirements of 807 KAR 5:006, Section 7. The regulation sets forth the terms, conditions, and amount of deposit which may be charged to applicants or customers to ensure payment of charges.

In the alternative, Bluegrass Cellular requested in its application that the Commission allow a deviation from the particular requirements of 807 KAR 5:006, Section 7, which govern the condition and dollar amount of deposits which can be charged to applicants and customers. Bluegrass Cellular wants to charge up to one-half of the yearly estimated usage as a deposit, with no ceiling on the dollar amount. Bluegrass Cellular makes the request pursuant to the provision of KRS 278.512.

As grounds for its application, Bluegrass Cellular states that cellular telephone service is unlike a traditional monopoly utility service.¹ All cellular telephone companies

¹ Application at 5-7.

have at least one direct competitor and will have additional competitors due to the introduction of other wireless technologies such as personal communication systems. In addition, cellular service is a discretionary service. Disconnection for non-payment would not cause disconnection of a customer's traditional wireline telephone service. Therefore, a cellular customer would not have the same level of incentive to pay for cellular service in the event of financial difficulty.

Finally, cellular rates are based upon usage; cellular customers generally pay a per minute usage charge on every call. This charge can include local cellular charges as well as charges for the use of other cellular systems known as "roaming" charges. With the inclusion of these charges, the rate for cellular usage can exceed \$1.00 per minute. The customer's serving cellular utility must pay these "roaming" charges prior to collection from the customer. The end result is that monthly usage can vary greatly and can reach high levels by the time that payment is due. Bluegrass Cellular therefore argues that it should not be subject to the same deposit requirements as wireline utilities.

Bluegrass Cellular acknowledges that it has the authority to terminate service to delinquent customers.² However, the utility argues that this is not the most effective means of ensuring payment in a competitive market. Additionally, uncollectible payment losses must be recovered either in increased rates or, as more likely in a competitive environment, decreased opportunities for reduced rates to remaining customers. Therefore, the utility seeks flexibility in the collection of deposits from applicants and customers.

² Application at 8.

The Commission has reviewed Bluegrass Cellular's application and is of the opinion that Bluegrass Cellular has provided a reasonable basis to justify a deviation in its deposit rules from the requirements of 807 KAR 5:006, Section 7. However, such deviation must be limited to ensure that applicants for service and existing customers are not subject to arbitrary treatment or discrimination in the utility's determination of appropriate deposit amounts.

807 KAR 5:006, Section 7(1)(a), allows a deposit amount not to exceed two-twelfths of the actual or estimated bill where bills are rendered monthly. However, if bills are rendered quarterly, the regulation allows a deposit amount not to exceed four-twelfths of the actual or estimated bill. Due to the competitive nature of the cellular telephone industry and the fact that cellular service is billed in arrears, which often means that billings include calls made one to two months after the fact, it is reasonable to allow deviation to the extent that deposit amounts may be allowed which do not exceed four-twelfths of the actual or estimated bill.

However, Bluegrass Cellular should be aware that if an applicant or customer files either a formal or informal complaint with the Commission concerning the amount of a required deposit, then Bluegrass Cellular must demonstrate that the proposed deposit represents either an actual historic or reasonable estimated billing.

Additionally, 807 KAR 5:006, Section 7(1)(c), requires a recalculation of the customer's deposit, based upon actual usage, after 18 months upon customer request. To ensure fair and reasonable treatment of all customers, it is reasonable to require Bluegrass Cellular to recalculate deposits in accordance with the regulation without requiring a


customer request where Bluegrass Cellular has required a deposit in excess of two-twelfths of actual or estimated usage.

IT IS HEREBY ORDERED that:

1. Bluegrass Cellular is granted a deviation from the requirements of 807 KAR 5:006, Section 7(1)(a), but only to the extent that the utility may charge a deposit to applicants or customers not to exceed four-twelfths of an actual or estimated bill.
2. Bluegrass Cellular shall be required to clearly demonstrate the reasonableness of the deposit should an applicant or customer file a complaint with the Commission concerning the amount of a required deposit.
3. Bluegrass Cellular shall recalculate deposits in accordance with 807 KAR 5:006, Section 7(1)(c), without a specific customer request where the utility has required a deposit in excess of two-twelfths of the actual or estimated bill.
4. Within 30 days of the date of this Order, Bluegrass Cellular shall file amended tariffs to reflect the changes ordered herein.

Done at Frankfort, Kentucky, this 23rd day of September, 1997.

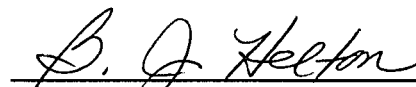
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Chairman


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ATTEST:


Executive Director


Commissioner